

# IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

W. CHARLES SMITHSON  
Executive Director  
& Legal Counsel

514 East Locust Street, Suite 104  
Des Moines, Iowa 50309-1912  
Telephone 515-281-4028/Fax 515-281-3701  
[www.state.ia.us/ethics](http://www.state.ia.us/ethics)

**BOARD MEMBERS:**  
James Albert, Chair  
Geraldine Leinen, 1<sup>st</sup> Vice Chair  
Gwendolyn Boeke, 2<sup>nd</sup> Vice Chair  
Mark McCormick  
Bernard McKinley  
Phyllis Peters

## LETTER OF REPRIMAND

Committee to Get Out and Vote No  
C/O Audrey Lampe  
3104 130<sup>th</sup> Ave  
Burt, Iowa 50522

On November 29, 2001, the Iowa Ethics and Campaign Disclosure Board determined that the Committee to Get Out and Vote No failed to include the proper attribution statement on political flyers distributed regarding a school merger bond issue in violation of Iowa Code section 56.14.

The Board determined that the public interest would not be served by pursuing formal complaint action or other sanctions available to it. However, the Board does consider this to be a serious matter. In lieu of a contested case proceeding, and in an effort to administratively resolve this matter, the Board issues this Letter of Reprimand pursuant to rule 351 IAC 1.4(2). A reprimand serves as the Board's mildest sanction and is considered discipline for violating the law. The Reprimand will be placed in the appropriate public disclosure files. If there is another violation in the future, the Board will take into consideration the fact the Committee to Get Out and Vote No received this Reprimand.

This Letter of Reprimand is the Board's final agency action in this matter for purposes of judicial review pursuant to Iowa Code section 17A.19.

Dated this 8<sup>th</sup> day of January 2002, in Des Moines (Polk County), Iowa.

## IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

James A. Albert, Chair  
Geraldine M. Leinen, 1st Vice Chair  
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Mark McCormick, Board Member  
Bernard L. McKinley, Board Member  
Phyllis Peters, Board Member

By: W. Charles Smithson  
W. Charles Smithson, Board Counsel

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Phyllis Peters

## LETTER OF REPRIMAND

Terry McAnally  
2508 NE 98<sup>th</sup> Place  
Ankeny, Iowa 50021

On January 24, 2002, the Iowa Ethics and Campaign Disclosure Board determined that you sent e-mails containing language advocating for candidates using school resources and equipment in violation of Iowa Code section 56.12A.

The Board determined that the public interest would not be served by pursuing formal complaint action or other sanctions available to it. However, the Board does consider this to be a serious matter. In lieu of a contested case proceeding, and in an effort to administratively resolve this matter, the Board issues this Letter of Reprimand pursuant to rule 351 IAC 1.4(2). A reprimand serves as the Board's mildest sanction and is considered discipline for violating the law. The Reprimand will be placed in the appropriate public disclosure files. If there is another violation in the future, the Board will take into consideration the fact this Reprimand was issued.

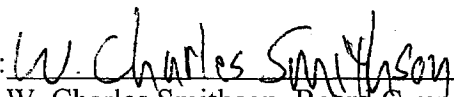
This Letter of Reprimand is the Board's final agency action in this matter for purposes of judicial review pursuant to Iowa Code section 17A.19.

Dated this 4<sup>th</sup> day of February 2002, in Des Moines (Polk County), Iowa.

### BY DIRECTION AND VOTE OF THE BOARD

James A. Albert, Chair  
Geraldine M. Leinen, 1<sup>st</sup> Vice Chair  
Gwendolyn M. Boeke, 2<sup>nd</sup> Vice Chair  
Mark McCormick, Board Member  
Bernard L. McKinley, Board Member  
Phyllis Peters, Board Member

Served by:

  
W. Charles Smithson, Board Counsel

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Bernard McKinley  
Phyllis Peters

## LETTER OF REPRIMAND

Judy Mauseth  
309 NE 8<sup>th</sup> St.  
Ankeny, Iowa 50021

On January 24, 2002, the Iowa Ethics and Campaign Disclosure Board determined that you sent e-mails containing language advocating for candidates using school resources and equipment in violation of Iowa Code section 56.12A.

The Board determined that the public interest would not be served by pursuing formal complaint action or other sanctions available to it. However, the Board does consider this to be a serious matter. In lieu of a contested case proceeding, and in an effort to administratively resolve this matter, the Board issues this Letter of Reprimand pursuant to rule 351 IAC 1.4(2). A reprimand serves as the Board's mildest sanction and is considered discipline for violating the law. The Reprimand will be placed in the appropriate public disclosure files. If there is another violation in the future, the Board will take into consideration the fact this Reprimand was issued.

This Letter of Reprimand is the Board's final agency action in this matter for purposes of judicial review pursuant to Iowa Code section 17A.19.

Dated this 4<sup>th</sup> day of February 2002, in Des Moines (Polk County), Iowa.

### BY DIRECTION AND VOTE OF THE BOARD

James A. Albert, Chair  
Geraldine M. Leinen, 1<sup>st</sup> Vice Chair  
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Mark McCormick, Board Member  
Bernard L. McKinley, Board Member  
Phyllis Peters, Board Member

Served by: W. Charles Smithson  
W. Charles Smithson, Board Counsel

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Bernard McKinley  
Phyllis Peters

## LETTER OF REPRIMAND

Beverly Nelson-Forbes  
3107 Fieldcrest Court  
Marshalltown, IA 50158

On January 24, 2002, the Iowa Ethics and Campaign Disclosure Board determined that you accepted an in-kind contribution from Peachtree Marketing, a corporation, in violation of Iowa Code section 56.15.

The Board determined that the public interest would not be served by pursuing formal complaint action or other sanctions available to it. In addition, after reviewing the circumstances surrounding the matter the Board does not believe that a reimbursement is necessary in this case. However, the Board does consider this to be a serious matter. In lieu of a contested case proceeding, and in an effort to administratively resolve this matter, the Board issues this Letter of Reprimand pursuant to rule 351 IAC 1.4(2). A reprimand serves as the Board's mildest sanction and is considered discipline for violating the law. The Reprimand will be placed in the appropriate public disclosure files. If there is another violation in the future, the Board will take into consideration the fact you received this Reprimand.

This Letter of Reprimand is the Board's final agency action in this matter for purposes of judicial review pursuant to Iowa Code section 17A.19.

Dated this 27<sup>th</sup> day of February 2002, in Des Moines (Polk County), Iowa.

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

James A. Albert, Chair  
Geraldine M. Leinen, 1st Vice Chair  
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Bernard L. McKinley, Board Member  
Phyllis Peters, Board Member

By: W. Charles Smithson  
W. Charles Smithson, Board Counsel

Keane Tracers

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Phyllis Peters

## LETTER OF REPRIMAND

Robert Baker, Jr.  
Keane Tracers, Inc.  
HMSS Services  
4 Gateway Center, 10th Floor  
Pittsburgh, PA 15222-1208

On April 11, 2002 the Iowa Ethics and Campaign Disclosure Board determined that you failed to file July 31, 2001 and January 31, 2002 executive branch lobbyist client reports on behalf of James Carney, Jennifer Tyler and George Appleby in violation of Iowa Code section 68B.38.

The Board determined that the public interest would not be served by pursuing formal complaint action or other sanctions available to it. In lieu of a contested case proceeding and in an effort to administratively resolve this matter, the Board issues this Letter of Reprimand pursuant to rule 351 IAC 1.4(2). A reprimand serves as the Board's mildest sanction and is considered discipline for violating the law. The Reprimand will be placed in the appropriate public disclosure files. If there is another violation in the future, the Board will take into consideration the fact you received this Reprimand.

This Letter of Reprimand is the Board's final agency action in this matter for purposes of judicial review pursuant to Iowa Code section 17A.19.

Dated this 16th day of April 2002 in Des Moines (Polk County), Iowa.

## IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

James A. Albert, Chair  
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By: W. Charles Smithson  
W. Charles Smithson  
Executive Director and Legal Counsel

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Bernard McKinley  
Phyllis Peters

## LETTER OF REPRIMAND

Beverly A. Cosby  
Beverly A. Cosby Campaign  
315 Wendall  
Waterloo, IA 50703

FILE COPY

On April 11, 2002 the Iowa Ethics and Campaign Disclosure Board determined that you failed to timely file your October 19, 2001 and January 19, 2002 disclosure reports in violation of Iowa Code section 56.6.

The Board determined that the public interest would not be served by pursuing formal complaint action or other sanctions available to it. In lieu of a contested case proceeding and in an effort to administratively resolve this matter, the Board issues this Letter of Reprimand pursuant to rule 351 IAC 1.4(2). A reprimand serves as the Board's mildest sanction and is considered discipline for violating the law. The Reprimand will be placed in the appropriate public disclosure files. If there is another violation in the future, the Board will take into consideration the fact you received this Reprimand.

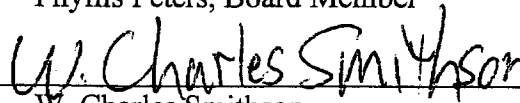
This Letter of Reprimand is the Board's final agency action in this matter for purposes of judicial review pursuant to Iowa Code section 17A.19.

Dated this 16th day of April 2002 in Des Moines (Polk County), Iowa.

## IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

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Bernard L. McKinley, Board Member  
Phyllis Peters, Board Member

By:

  
W. Charles Smithson

Executive Director and Legal Counsel

cc: Black Hawk County Auditor

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Bernard McKinley  
Phyllis Peters

## LETTER OF REPRIMAND

Rod Goldsmith  
1759 190th Street  
Klemme, IA 50449

On May 23, 2002 the Iowa Ethics and Campaign Disclosure Board determined that you sent e-mail containing language advocating for a candidate using school resources and equipment in violation of Iowa Code §56.12A.

The Board determined that the public interest would not be served by pursuing formal complaint action or other sanctions available to it. In lieu of a contested case proceeding and in an effort to administratively resolve this matter, the Board issues this Letter of Reprimand pursuant to rule 351 IAC 1.4(2). A reprimand serves as the Board's mildest sanction and is considered discipline for violating the law. The Reprimand will be placed in the appropriate public disclosure files. If there is another violation in the future, the Board will take into consideration the fact you received this Reprimand.

This Letter of Reprimand is the Board's final agency action in this matter for purposes of judicial review pursuant to Iowa Code section 17A.19.

Dated this 24th day of May 2002 in Des Moines (Polk County), Iowa.

## IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

James A. Albert, Chair  
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Gwendolyn M. Boeke, 2nd Vice Chair  
Mark McCormick, Board Member  
Bernard L. McKinley, Board Member  
Phyllis Peters, Board Member

By: W. Charles Smithson  
W. Charles Smithson  
Executive Director and Legal Counsel

cc: Cerro Gordo County Auditor

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Bernard McKinley  
Phyllis Peters

## LETTER OF REPRIMAND

Vic Kruse  
Kruse for Supervisor  
1761 110<sup>th</sup> Street  
Salem, IA 52649

This Letter of Reprimand is issued in accordance with a Final Order in Case No. 2001 IECDB 20.

The Board determined that you failed to obey a directive of the Board by refusing to place a correction advertisement in the local newspaper for a violation of Iowa Code section 56.14(1)"a" and issues this Letter of Reprimand to be placed in your public disclosure file in the Board's office in Des Moines and the Lee County Auditor's office.

This Letter of Reprimand is part of the Board's final order in this matter. Judicial review of the action may be sought within 30 days pursuant to Iowa Code section 17A.19.

Dated this 2<sup>nd</sup> day of August, 2002, in Des Moines (Polk County), Iowa.

## IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

James A. Albert, Chair  
Geraldine M. Leinen, 1<sup>st</sup> Vice Chair  
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Mark McCormick, Board Member  
Phyllis Peters, Board Member

By: W. Charles Smithson  
W. Charles Smithson, Board Counsel

cc: Lee County Auditor



Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Lucas State Office Building  
Des Moines, Iowa 50319

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IN THE MATTER OF:	)	Case No. 2001IECDB12
ELIZABETH CHRISTIANSEN	)	DIA No. 01IECDB001
In Her Official Capacity as the	)	
Administrator of the Land Quality	)	<b>RULING ON MOTIONS</b>
And Waste Management Assistance Div)	)	<b>FOR SUMMARY JUDGMENT</b>
of the Dept. of Natural Resources,	)	
	)	
RESPONDENT.	)	

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PROCEDURAL BACKGROUND

On January 15, 2001, an anonymous complaint was filed with the Iowa Ethics and Campaign Disclosure Board (herein Board) alleging that Elizabeth Christiansen (herein Respondent) had accepted employment in violation of Iowa Code section 68.7B (2001).

The Board initiated an investigation of the matter and filed a Statement of Charges and Notice of Hearing on August 1, 2001. On August 8, 2001, the Respondent filed a Request for Assignment of Administrative Law Judge with the Board. The Board granted this request on August 19, 2001, and transmitted the matter to the Iowa Department of Inspections and Appeals, Division of Administrative Hearings, for the assignment of an administrative law judge.

The matter was set for hearing on September 20, 2001. Both parties agreed to continue the matter. Eventually the parties agreed to stipulate to the underlying facts and to provide briefs in support of their respective Motions for Summary Judgment. The parties then were heard on oral arguments on December 14, 2001.

STIPULATED FACTS

In December of 1999 the Director of the Department of Natural Resources, Paul Johnson, requested advice from the Iowa Attorney General concerning whether Iowa Code section 68B.7 would prohibit a member of the Environmental Commission from accepting employment with the Department of Natural Resources. On December 27, 1999, the Attorney General's Office advised in writing that Iowa Code section 68B.7 prohibits employment only when compensation for the employment is dependent or contingent upon action by the agency with respect to a specific matter. Neither the Respondent, nor the Attorney General's office, requested an opinion letter from the Iowa Ethics and Campaign Disclosure Board on this point of law.

The Respondent was a member of the Environmental Protection Commission of the Iowa Department of Natural Resources until her resignation from that Commission on April 17, 2000. She began her employment as the Division Administrator of the Land Quality and Waste Management Division of the Department of Natural Resources on May 12, 2000.

#### CONCLUSIONS OF LAW

Iowa Code section 68B.7 (2001), reads in part:

A person who has served as the head of or on a commission or board of a regulatory agency or as a deputy thereof, shall not, within a period of two years after the termination of such service accept employment with that commission, board, or agency or receive compensation for any services rendered on behalf of any person, firm, corporation, or association in any case, proceedings, or application before the department with which the person so served wherein the person's compensation with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit, or in promoting or opposing, directly or indirectly, the passage of bills or resolutions before either house of the general assembly.

The code then provides that "a person who knowingly and intentionally violates a provision of section 68B.2A through 68B.7, . . . is guilty of a serious misdemeanor and may be reprimanded, suspended, or dismissed from the person's position or otherwise sanctioned." Iowa Code § 68B.25 (2001).

Additional penalties are found in Iowa Code section 68B.32D. Under this section the Board may do one or more of the following:

- a. Issue an order requiring the violator to cease and desist from the violation found.
- b. Issue an order requiring the violator to take any remedial action deemed appropriate by the board.
- c. Issue an order requiring the violator to file any report, statement, or other information as required by this chapter, chapter 56, or rules adopted by the board.
- d. Publicly reprimand the violator for violations of this chapter, chapter 56, or rules adopted by the board in writing and provide a copy of the reprimand to the violator's appointing authority.

- e. Make a written recommendation to the violator's appointing authority that the violator be removed or suspended from office, and include in the recommendation the length of the suspension.

. . .

- h. Issue an order requiring the violator to pay a civil penalty of not more than two thousand dollars for each violation of this chapter, chapter 56, or rules adopted by the board.
- i. Refer the complaint and supporting information to the attorney general or appropriate county attorney with a recommendation for prosecution or enforcement of criminal penalties.

If statutory language is clear and unambiguous, a court applies a plain and rational meaning in light of the subject matter of the statute. Iowa Comprehensive Petroleum Underground Storage Tank Fund Bd. v. Mobil Oil Corp., 606 N.W.2d 359 (Iowa 2000). However, if reasonable minds could disagree over the meaning of a word or phrase of a statute, the statute is ambiguous and the reviewing court must resort to the rules of statutory construction. Id.

When employing statutory construction, the polestar is the intent of the legislature. Shinrone Farms, Inc. v. Gosch, 319 N.W.2d 298 (Iowa 1982). The guide in looking for legislative intent is what the legislature actually said, rather than what it should or could have said. State v. Hatter, 414 N.W.2d 333, 337 (Iowa 1987). Courts may not, under the guise of construction, enlarge or otherwise change the terms of the statute. State v. Byers, 456 N.W.2d 917, 919 (Iowa 1990). A statute should be construed so that effect will be given to all of its provisions, and no part is superfluous or void. State v. Harrison, 325 N.W.2d 770, 772 (Iowa App. 1982).

The undersigned finds that Iowa Code section 68B.7 is not clear and unambiguous. If any statute requires the tools of statutory interpretation, it is this 118-word sentence. The Legislature appeared not to have been striving for clear or concise language when drafting this statute.

The only legislative history that would glean the Iowa Legislature's intent in analyzing Iowa Code section 68B.7 is the explanation attached to the 1989 amendment to this statute. This explanation states:

Section 23 restricts the future employment for two years of persons who have served on a board, or as a deputy of a regulatory agency, with the same board, commission, or agency in the same manner that current law restricts nonemployment contractual relations. [House File 779, 73<sup>rd</sup> G.A., 1<sup>st</sup> Sess. (1989).]

From this explanation it becomes clear that the Legislature saw this code section as previously addressing only contract employees, hired for a specific purpose or action. Individuals who had served on boards or commission were prohibited from accepting employment as a contract, or non-full time employee, with the agencies with which they had served.

The Legislature added the prohibition of individuals who had served on commissions or boards from becoming full-time employees for a period of two years after they stopped serving on the board or commission. The explanation restricts "future employment for two years of persons who have served on a board . . . with the same board . . . in the same manner that current law restricts nonemployment contractual relations." At that time Iowa Code section 68B.7 prohibited nonemployment contractual relations for two years, and with the amendment now full time employment was also to be prohibited.

This interpretation is consistent with the usage of the word "or" separating the two different types of employment (full time v. contract employees). The use of "or" was intended to be disjunctive by the Legislature to differentiate between two different types of employment.

The public policy behind this statute appears to be the Legislature's attempt to prevent a "revolving door" wherein a person can serve on a commission and use that as a springboard to either part-time employment on a contractual basis or as a full-time employee. Whether this is a sound policy is not within the realm of this hearing or this decision. The Legislature has promulgated this statute and it must be applied as written.

Thus, the Respondent was prohibited from accepting employment with the Iowa Department of Natural Resources for two years after serving on the Environmental Protection Commission.

When determining the sanction to be imposed for the Respondent's violation of the statute the advice provided by the Attorney General's Office must be taken into account. Prior to the Respondent's leaving her position as a Commissioner on the

Environmental Protection Commission of the Iowa Department of Natural Resources the Director of the Department of Natural Resources, Paul Johnson, wrote a letter to the Iowa Attorney General's Office requesting an opinion letter concerning the appropriateness of the a Commissioner accepting employment with the agency. The Iowa Attorney General's Office provided an opinion letter indicating that this employment would not violate Iowa Code section 68B.7.

The Respondent acted in conformity with this advice. Because she was acting with this advice, which the undersigned has found to be incorrect, the sanction to be imposed shall be minimized.

The undersigned finds that the severe sanctions outlined in Iowa Code section 68B.25 are not appropriate. The Respondent did not violated Iowa Code section 68B.7 knowingly and intentionally in light of the Attorney General's opinion letter.

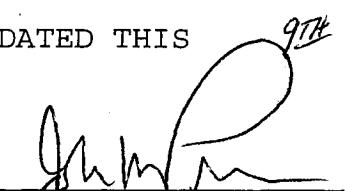
Iowa Code section 68B.25 is not the only code section that deals with sanctions for violating Iowa Code section 68B.7. Iowa Code section 68B.32D outlines civil penalties that may be imposed for violations of Iowa Code chapter 68B.

In light of the mitigating circumstances in the Respondent's case, mainly the fact that she was acting in conformity with an opinion letter from the Iowa Attorney General's Office, the undersigned finds that the least severe civil sanction shall be imposed. The Respondent shall be publicly reprimanded and this decision shall be forwarded to her appointing authority pursuant to Iowa Code section 68B.32D(1)d.

#### DECISION

The Board's Motion for Summary Judgment is hereby GRANTED and the Respondent's Motion for Summary Judgment is hereby DENIED. The Respondent is found to have violated Iowa Code section 68B.7 and she is hereby publicly reprimanded.

DATED THIS <sup>9<sup>TH</sup></sup> DAY OF JANUARY 2002.

  
\_\_\_\_\_  
JOHN M PRIESTER  
ADMINISTRATIVE LAW JUDGE

Page 6 of 6  
01IECDB001

CC: JULIE POTORF, AAG

W CHARLES SMITHSON, BOARD COUNSEL

JAMES ALBERT, BOARD CHAIR

TERRI EMERY, DIA

BETTY MAXWELL, DIA

DEPARTMENT OF NATURAL RESOURCES, DIRECTOR